

**REMARKS**

Withdrawal of the rejections set forth in the Office Action dated March 31, 2006 is respectfully requested. Claims 52, 53 and 60-63 are pending in the application. Applicants thank the Examiner for an indication that claims 52 and 53 are allowed. Claims 60-63 stand rejected.

I. **Amendments**

The specification is amended in accordance with the Examiner's kind suggestions.

The Sequence Listing is amended in accordance with the Examiner's kind suggestions. Accordingly, Applicants submit they have fulfilled all of the requirements of 37 C.F.R. §§ 1.821-1.825.

Claims 60-63 have been amended in accordance with the Examiner's kind suggestions.

II. **Withdrawal from Issue**

The instant application was withdrawn from issue based on alleged new matter added to the specification in preliminary amendments filed May 22, 2000 and May 12, 2005. Without acquiescing to the Examiner's position, and in order to expedite prosecution, Applicants have cancelled the alleged new matter.

III. **Interview Summary in accord with MPEP § 713.04**

Applicants thank the Examiner for granting a telephonic interview regarding the above-referenced application on May 18, 2006. The participants were Examiner Chih-Min Kam (USPTO), and Gina Freschi (Applicants' representative). This written summary is submitted in accordance with MPEP §713.04.

1. No exhibits were shown or discussed.
2. Claims 60-63 were discussed.

3. The withdrawal of the application from issue was discussed. The Examiner's proposed amendments to claims 60-63 were discussed. The alleged new matter added to the specification was discussed.

4. An agreement was reached that the proposed amendments would place claims 60-63 in condition for allowance. Applicants also agreed to remove reference to SEQ ID NO:8-9 and SEQ ID NO:60-63 in the specification.

IV. Rejection under 35 U.S.C. §102(b)

Claims 60-63 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Bujard *et al.*, (WO 94/29442). Claims 60-63 have been amended to differentiate the claimed subject matter from the prior art in accordance with the Examiner's suggestions. Specifically, claims 60-63 each now recite that "the DNA binding compound is separate and different from the transcriptional regulatory protein." Thus, the amendment renders the Examiner's rejection moot. Withdrawal is respectfully requested.

V. Conclusion

In view of the foregoing, Applicants submit the claims pending in the application are in condition for allowance. A Notice of Allowance is therefore respectfully requested.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4341.

Respectfully submitted,  
Perkins Coie LLP

Date: June 30, 2006

Gina C. Freschi  
Gina C. Freschi  
Registration No. 52,062

Correspondence Address:

Customer No. 22918  
(650) 838-4300